

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND FOURTEENTH LEGISLATURE
FIRST REGULAR SESSION

December 7, 1988 to July 1, 1989

Chapters 1 - 502

THE GENERAL EFFECTIVE DATE FOR
NON-EMERGENCY LAWS IS
SEPTEMBER 30, 1989

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

J.S. McCarthy Company
Augusta, Maine
1989

PUBLIC LAWS
OF THE
STATE OF MAINE

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to a policy providing benefits for specific diseases or accidental injury only.

Sec. 7. 24-A MRSA §4120, sub-§2, as enacted by PL 1969, c. 132, §1, is amended to read:

2. No life benefit certificate ~~shall~~ may be delivered or issued for delivery in this State containing in substance any of the following provisions:

A. Any provision limiting the time within which any action at law or in equity may be commenced to less than 2 years after the cause of action shall accrue;

B. Any provision by which the certificate shall purport to be issued or to take effect more than 6 months before the original application for the certificate was made, except in case of transfer from one form of certificate to another in connection with which the member is to receive credit for any reserve accumulation under the form of certificate from which the transfer is made; ~~or~~

C. Any provision for forfeiture of the certificate for failure to repay any loan thereon or to pay interest on such loan while the total indebtedness, including interest, is less than the load value of the certificate; or

D. Any provision providing more restrictive coverage or excluding coverage for death resulting from Acquired Immune Deficiency Syndrome (AIDS), AIDS Related Complex (ARC) or HIV related diseases except this provision shall not apply to death by accident or accidental means.

Sec. 8. 24-A MRSA §4121-A is enacted to read:

§4121-A. Acquired Immune Deficiency Syndrome

No certificate providing health insurance benefits delivered or issued for delivery in this State, other than a certificate providing benefits for specific diseases or accidental injuries only, may provide more restrictive coverage for Acquired Immune Deficiency Syndrome (AIDS), AIDS Related Complex or HIV related diseases than for any other disease or sickness or exclude coverage for Acquired Immune Deficiency Syndrome (AIDS), AIDS Related Complex (ARC) or HIV related diseases except through an exclusion under which all sicknesses and diseases are treated the same.

Sec. 9. 24-A MRSA §4229 is enacted to read:

§4229. Acquired Immune Deficiency Syndrome

No policy, contract or certificate delivered or issued for delivery in this State may provide more restrictive coverage for Acquired Immune Deficiency Syndrome (AIDS), AIDS Related Complex or HIV related diseases than for any other disease or sickness or exclude coverage for AIDS,

ARC or HIV related diseases except through an exclusion under which all sicknesses and diseases are treated the same.

See title page for effective date.

CHAPTER 177

S.P. 329 - L.D. 866

An Act to Establish Free Fishing Days in Maine

Be it enacted by the People of the State of Maine as follows:

12 MRSA §7035, sub-§11-A is enacted to read:

11-A. Free fishing days. As a means to promote sport fishing within the inland waters of the State, the commissioner may designate no more than 2 days in each calendar year as "free fishing days." Notwithstanding section 7371 as it applies to section 7151, it shall be lawful during any free fishing day established pursuant to this subsection for any resident to fish without a license in the inland waters, except that this provision shall not apply to any resident whose license to fish is under suspension or revocation. All other provisions of chapters 701 to 721 relating to fish shall be applicable during any free fishing day.

See title page for effective date.

CHAPTER 178

H.P. 330 - L.D. 449

An Act Concerning an Employee's Right to Review the Employee's Personnel File

Be it enacted by the People of the State of Maine as follows:

26 MRSA §631, as amended by PL 1979, c. 66, §§1 and 2, is further amended to read:

§631. Employee right to review personnel file

The employer shall, upon written request from an employee or former employee, provide the employee, former employee or his duly authorized representative with an opportunity to review his the employee's personnel file if the employer has a personnel file for that employee. ~~Such~~ The reviews shall take place at the location where the personnel files are maintained and during normal office hours. The employer may at his the employer's discretion allow the review to take place at such other location and time as would be more convenient for the employee. For the purpose of this section, a personnel file shall include, but not be limited to, any formal or informal employee evaluations and reports relating to the employee's character, credit, work habits, compensation and benefits and nonprivileged medical records or nurses' station notes relating to the employee which the employer has in his the employer's possession. Any

employer who, following a request pursuant to this section, without good cause fails to provide an opportunity for review of a personnel file, within 10 days of receipt of that request, shall be subject to a civil ~~penalty~~ forfeiture of \$25 for each day that such a failure continues. The total ~~penalty~~ forfeiture may not exceed \$500. For the purposes of this section, the term "nonprivileged medical records or nurses' station notes" means all such materials that have not been found to be protected from discovery or disclosure in the course of civil litigation under the Maine Rules of Civil Procedure, Rule 26, the Maine Rules of Evidence, Article V or similar rules adopted by the Workers' Compensation Commission or other administrative tribunals.

See title page for effective date.

CHAPTER 179

S.P. 214 - L.D. 530

An Act Relating to Driver Education Courses

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the Department of Educational and Cultural Services does not have the approval authority for all driver education courses; and

Whereas, it is appropriate and desirable for the Department of Educational and Cultural Services to have this authority; and

Whereas, Maine vocational-technical institutes may not be able to continue to offer courses in truck driving and heavy equipment operation if the instructors of these courses are required to be licensed by the Board of Commercial Driver Education; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 20-A MRSA §8701, as enacted by PL 1985, c. 797, §45, is repealed and the following enacted in its place:

§8701. Driver education

Public secondary schools, approved private secondary schools, vocational centers, vocational regions and adult education programs conducted pursuant to chapter 315 may offer courses in driver education.

Sec. 2. 20-A MRSA §§8702 and 8703, as enacted by PL 1985, c. 797, §45, are amended to read:

§8702. Curriculum

A driver education course offered to meet the requirements of Title 29, section 583, in accordance with section 8701 shall meet the curriculum requirements prescribed by the commissioner, include both classroom instruction and practice driving and be approved by the commissioner. The requirements prescribed by the commissioner shall be no less rigorous than any similar requirements prescribed by the Board of Commercial Driver Education. No state subsidy, state reimbursement for expenditures on adult education programs or state reimbursement for adult vocational education programs may be paid with respect to any driver education course that has not been approved by the commissioner. At the request of the commissioner, the Board of Commercial Driver Education may assist the commissioner in performing the commissioner's duties under this chapter.

§8703. Instructors

Instructors shall hold certification to teach driver education.

1. Regular certification. Only persons certified by the commissioner as a driver education teacher may be employed by a ~~school unit or private school~~ public secondary school, approved private secondary school, vocational center, vocational region or adult education program, conducted pursuant to chapter 315, to teach driver education. The commissioner shall establish instructor qualification requirements for a person to obtain certification to teach courses in preparation for a Class 1 or Class 2 license. Those requirements shall be no less rigorous than any similar requirements prescribed by the Board of Commercial Driver Education.

2. Temporary certification. If a certified instructor is not available to teach driver education and the school board, cooperative board or private school ~~so~~ requests, the commissioner shall grant a temporary certificate to any person who holds a Class A license issued by the Board of Commercial Driver Education pursuant to Title 32, section 9601, subsection 2 and section 9603.

3. Contracts. A ~~school unit or private school~~ public secondary school, approved private secondary school, vocational center, vocational region or adult education program conducted pursuant to chapter 315 may contract with a commercial driver education school to provide driver education as part of the secondary school curriculum provided that any instructor ~~must be~~ is properly certified.

Sec. 3. 20-A MRSA §12719 is enacted to read:

§12719. Driver education

Not later than December 31, 1989, the board of trustees shall establish curriculum and instructor qualification requirements for driver education, truck driver education and heavy equipment operation courses offered in accordance with section 12706, subsection 15. Those requirements shall be no less rigorous than any similar require-